



Department of Planning, Housing, & Community Development

Mayor, Matthew T. Ryan
Tarik Abdelazim, Director

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: September 20, 2013
SUBJECT: 101 Bevier Street; Use Variance
CASE: 2013-25

A. VARIANCE REQUESTED

This application would legally establish a 113 year old single-family dwelling located at 101 Bevier Street. The property is located within the I-3 Heavy Industrial District. Residential activities are not permitted in the I-3 District; therefore a use variance is required from the Zoning Board of Appeals. The impetus for this application came about when during the sale of the dwelling the lender would not approve the purchaser's loan application because the dwelling is not permitted in the zone in which it is located. The lender has asked that a use variance be obtain prior to issuance of the loan so that the bank issuing the loan would have assurance that the dwelling can be reconstructed if it were damage or destroyed.

In granting a use variance, the Zoning Board of Appeals must find the applicant has adequately demonstrated the following:

- (a). **Economic deprivation:** That under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence;
- (b). **Unique circumstances:** That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;
- (c). **Neighborhood character:** That granting the variance will be in harmony with the spirit and intent of this ordinance and will not alter the essential character or quality of the neighborhood, endanger public health or safety, or substantially diminish or impair property values in the neighborhood.
- (d). **Self-created hardship:** That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. SITE REVIEW

The property known as 101 Bevier Street is located between Smith Street and the railroad right-of-way. The site is improved with a two story single-family dwelling constructed in 1900.

The subject site is adjacent to single-family dwelling to the west and north, a vacant lot to the east and a parking lot for an industrial building to the south.

C. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

125 Bevier Street: 02/07/95 – Planning Commission approved a Series B Site Plan for the construction of a 2nd floor addition on an office building.

128 Bevier Street: 02/15/96 – Zoning Board of Appeals approved area variance to construct an addition to an existing manufacturing facility.

131 Bevier Street: 08/17/00 – Planning Commission approved Series B Site Plan to allow the demolition of a one family home and clearing, paving and planting over the area.

154 Bevier Street: 12/16/87 – Zoning Board of Appeals denied use variance to allow garage on petitioners' lot to be used for an auto repair business.

156 - 158 Bevier Street: 05/10/82 – Zoning Board of Appeals approved area variance to rebuild and extend the back porch of the house as an extended kitchen and bedrooms.

162 Bevier Street: 08/01/09 – Zoning Board of Appeals approved area variance to expand a garage.

D. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Zoning Board of Appeals may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
 - a. Type I
 - b. Type II
 - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. After the Public Hearing Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C-1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
			X	X	X	X

5. Final Motion to Approve/ Disapprove.

E. STAFF FINDINGS

Planning Staff has the following findings:

1. The Zoning Board of Appeals must determine that under applicable zoning regulations, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

The subject site has been utilized for single-family residential purposes for at least 113 years and is improved with a 113 year old single family dwelling. Without the variance the property owners will not be able to sell the subject site and dwelling for residential purposes.

2. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.

The granting of the variance would ensure that the character of the site could remain residential. This continued residential use would be consistent with the adjacent development to the west of the site and along Smith Street to the rear.

3. The Zoning Board of Appeals must determine that the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.

A substantial portion of the district is utilized for industrial purposes. Therefore, this hardship would be unique to the subject site and the few residential properties located long Smith Street.

4. The Zoning Board of Appeals must determine that granting the variance will not alter the essential character of the neighborhood.

The subject site has been residential for at least 113 years. Therefore, granted the variance would retain the character of the site and the area.

5. The Zoning Board of Appeals must determine if the alleged difficulty was self-created.

The use of the subject site and the existing dwelling on the site predates Binghamton's zoning regulations. Therefore, the difficulty was not self-created.

F. ENCLOSURES

Enclosed are copies of the site and floor plans, site photographs, and the application.

Prepared by:

Leigh McCulen
Senior Planner

Enclosures